IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Raghuveer Singh & Anr. Versus State of Rajasthan.

S.B. Criminal Misc. Petition No.1497/2006
against the order dated 15-11-2006 passed by the Judicial Magistrate, Devgarh, district Rajsamand, in FIR No. 133/2006, Police Station, Deever, district Rajsamand.

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Date of Order: November 20, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Sandeep Mehta, for the petitioner.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.

BY THE COURT:

Notice for final disposal is accepted by the learned Public Prosecutor. With the consent of the learned counsel for the parties, the criminal miscellaneous petition is being heard and disposed of at the admission stage.

The order dated 15-11-2006 passed by the Judicial Magistrate, Devgarh, district Rajsamand (for short, "the trial Court" hereinafter) has been challenged by the petitioner by way of this criminal miscellaneous petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter).

It is contended by the learned counsel for the petitioner that the truck No. RJ.27GA-1688 was seized by the police in a criminal case being FIR No. 133/2006, Police Station, Deever, district Rajsamand. Petitioners, who are partners of firm M/s. Ganpati Green Marbles, 28, Central Area, Reti Stand, Udaipur (for short, "the firm" hereinafter), filed an application under Section 457 of the Code seeking interim custody of the said truck on Supurdginama. Along with the application, the document showing the partnership firm, whose Directors are the petitioners, as also the registration certificate issued by the Commercial Taxation Officer, Udaipur, as also the document showing that the said vehicle is insured in the name of the firm as also the invoice etc. by which the said truck was purchased by the said firm and the registration certificate of the vehicle, as also the affidavits of both the partners of the said firm. The trial Court, vide impugned order dated 15-11-2006, refused to give the interim custody and release the truck in question on Supurdginama on the ground that the said partnership firm is not a registered firm.

Be that as it may, the various documents show that the said truck is registered in the name of the aforesaid firm and various documents, including the registration certificate issued by the Commercial Taxation Officer, Udaipur, as also the documents pertaining to the partnership, show that both the

petitioners are the Directors of the said firm and, therefore, they are the best persons to possess the vehicle in question during pendency of the case, more particularly when except the petitioners, no person claims the possession of the said vehicle. In this view of the matter, the trial Court fell in error in declining to release the vehicle in favour of the petitioners.

In the result, the criminal miscellaneous petition is allowed. The impugned order dated 15-11-2006 passed by the trial Court is set aside and the trial Court is directed to release the said truck in favour of the firm M/s. Ganpati Green Marbles, 38 Central Area, Reti Stand, Udaipur through its partners, who are the petitioners herein, with the terms and conditions which the trial Court thinks just and proper to imposed.

(H.R. PANWAR), J.

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